

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ESTATE OF KENDA K. GOULD and
CHARLES PATRICK GOULD,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,
UNITED STATES FOREST
SERVICE,

Defendant.

CV 20–177–M–DWM

ORDER

In May 2019, a charred tree fell on an all-terrain vehicle occupied by Kenda and Patrick Gould while they were driving on the West Fork Fish Creek Road No. 7750 (“Road No. 7750”) in the Lolo National Forest in northwestern Montana. Kenda was killed and Patrick was seriously injured. On December 4, 2020, Patrick sued the United States under the Federal Tort Claims Act (“FTCA”) on behalf of himself and as the personal representative of Kenda’s estate (collectively “Plaintiffs”), alleging that the United States Forest Service failed to properly survey or maintain the road as to evaluate and prioritize hazards, including trees that were burned during an August 2015 forest fire. (Doc. 1.)

Currently pending before the Court is the government’s motion for summary judgment, (Doc. 18), and Plaintiffs’ motion in limine, (Doc. 29). On the motion


for summary judgment, there are no genuine disputes of material fact and the United States is entitled to judgment in light of the discretionary function exception to the FTCA. Fed. R. Civ. P. 56(a); 28 U.S.C. § 2680(a).

Accordingly, IT IS ORDERED that the United States' motion for summary judgment, (Doc. 18), is GRANTED. A reasoned decision will follow in due course. Judgment will be entered at that time.

IT IS FURTHER ORDERED that Plaintiffs' motion (Doc. 29) is DENIED as MOOT.

IT IS FURTHER ORDERED that the July 11, 2022, bench trial and all related deadlines are VACATED.

DATED this 28th day of June, 2022.


Donald W. Molloy, District Judge
United States District Court